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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2008-291

11 DEENA SUSAN COHEN
12 334 E. Montello Drive
Azusa, CA 91702

ACCUSATION

13 Registered Nurse License No. 301325

14 Respondent.
15

16
17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H, R.N. (Complainant) brings this Accusation solely
20 in her official capacity as the Executive Officer of the Board of Registered Nursing (Board).

21 2. On or about March 31, 1979, the Board issued Registered Nurse License
22 Number 301325 to Deena Susan Cohen (Respondent). The Registered Nurse License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on June 30,
24 2008, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing under
27 the authority of the following laws. All section references are to the Business and Professions
28 Code unless otherwise indicated.

1 4. Section 2761 of the Code states:

2 "The board may take disciplinary action against a certified or licensed nurse or
3 deny an application for a certificate or license for any of the following:

4 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

5 (1) Incompetence, or gross negligence in carrying out usual certified or
6 licensed nursing functions.

7 ...

8 (d) Violating or attempting to violate directly, or indirectly, or assisting in or
9 abetting the violating of, or conspiring to violate any provision or term of this chapter [the
10 Nursing Practice Act] or regulations adopted pursuant to it."

11 5. Section 2762 of the Code states:

12 "In addition to other acts constituting unprofessional conduct within the meaning
13 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
14 under this chapter to do any of the following:

15 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
16 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
17 or administer to another, any controlled substance as defined in Division 10 (commencing with
18 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
19 defined in Section 4022.

20 "(b) Use any controlled substance as defined in Division 10 (commencing with
21 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
22 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
23 injurious to himself or herself, any other person, or the public or to the extent that such use
24 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
25 license.

26

27 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible
28 entries in any hospital, patient, or other record pertaining to the substances described in

subdivision (a) of this section.”

6. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

7. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

8. California Code of Regulations, title 16, section 1443.5 states:

"A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

"(1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.

"(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.

"(3) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client's health needs.

"(4) Delegates tasks to subordinates based on the legal scopes of practice of the subordinates and on the preparation and capability needed in the tasks to be delegated, and effectively supervises nursing care being given by subordinates.

1 "(5) Evaluates the effectiveness of the care plan through observation of the
2 client's physical condition and behavior, signs and symptoms of illness, and reactions to
3 treatment and through communication with the client and health team members, and modifies the
4 plan as needed.

5 "(6) Acts as the client's advocate, as circumstances require, by initiating action to
6 improve health care or to change decisions or activities which are against the interests or wishes
7 of the client, and by giving the client the opportunity to make informed decisions about health
8 care before it is provided."

9 9. California Code of Regulations, title 16, section 1444, states:

10 "A[n] . . . act shall be considered to be substantially related to the qualifications,
11 functions or duties of a registered nurse if to a substantial degree it evidences the present or
12 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
13 safety, or welfare. Such . . . acts shall include but not be limited to the following:

14
15 "(c) Theft, dishonesty, fraud, or deceit. . . ."

16 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
17 request the administrative law judge to direct a licentiate found to have committed a violation or
18 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
19 and enforcement of the case.

20 11. DEFINITIONS

21 A. **"Demerol,"** is the brand name of meperidine hydrochloride, is a Schedule
22 II controlled substance as designated by Health and Safety Code section 11055(c)(17), and is
23 categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

24 B. **"Morphine,"** is classified as a Schedule II controlled substance pursuant
25 to Health and Safety Code section 11055, subdivision (b)(1)(M), and is categorized as a
26 "dangerous drug" pursuant to Business and Professions Code section 4022

27 C. **"Percocet,"** is the brand name for Oxycodone with Acetaminophen. It is
28 classified as a Schedule II controlled substance pursuant to Health and Safety Code section

1 11055, subdivision (b)(1)(N), and is categorized as a “dangerous drug” pursuant to Business and
2 Professions Code section 4022.

3 D. “**Vicodin,**” is the brand name for Hydrocodone with Acetaminophen. It is
4 classified as a Schedule III controlled substance pursuant to Health and Safety Code Section
5 11056, subdivision (e)(5), and is categorized as a “dangerous drug” pursuant to Business and
6 Professions Code section 4022.

7 E. “**Pyxis,**” is a computerized automated medication distribution system that
8 operates similarly to an automated teller machine at a bank. Medications can be withdrawn from
9 the Pyxis machines only by an authorized staff person using his or her own personalized access
10 code. The Pyxis machine makes a record of the medication and dose, date and time it was
11 withdrawn, the user identification, and the patient for whom it was withdrawn.

12 FIRST CAUSE FOR DISCIPLINE

13 (Falsified/Grossly Inconsistent Hospital Records)

14 12. Respondent is subject to disciplinary action under section 2761,
15 subdivision (a) and (d), on the grounds of unprofessional conduct, as defined by section 2762,
16 subdivision (e), and California Code of Regulations, title 16, section 1444, in that while
17 employed as a registered nurse at Methodist Hospital, Respondent falsified, made grossly
18 incorrect, grossly inconsistent, or unintelligible entries in hospital and patient records pertaining
19 to controlled substances and dangerous drugs in the following respects:

20 Patient William M.

21 a. On or about May 8, 2003, the Pyxis Report indicates that Respondent
22 removed one tablet of Percocet at 0853, 1122, 1347 and 1802 hours, for a total of 4 tablets.
23 However, Respondent only documented administering one Percocet tablet to the patient, at 0900
24 and 1120 hours. Respondent failed to record the wastage or otherwise account for the other 2
25 tablets of Percocet. The physician’s orders were for Percocet 1 tablet every 4 hours as needed for
26 pain.

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1 Patient Maria D.

2 b. On or about May 8, 2003, the Pyxis Report indicates that Respondent
3 Respondent removed 1 50 mg vial of injectable Demerol at 1012 and 2033. Respondent failed to
4 document the administration of the medication in the Medication Administration Records
5 (MAR's) or Nursing Notes and failed to record wastage or otherwise account for the 100 mg of
6 Demerol. The physician's orders were for 40-50 mg., IV every 3 hours for severe pain.

7 Patient Jose G.

8 c. On or about May 8, 2003, the Pyxis Report indicates that Respondent
9 removed 1 Vicodin tablet at 2041 hours. Respondent failed to document the administration of
10 the medication in the MAR's or Nursing Notes and failed to record wastage or otherwise account
11 for the Vicodin tablet. The physician's orders were for Morphine 4-6 mg., IV every 2 hours as
12 needed for pain and Vicodin 1 tablet every 4 hours PRN for pain.

13 Patient Patricia P.

14 d. On or about May 8, 2003, the Pyxis Report indicates that Respondent
15 removed 8 mg morphine at 1814 hours. Respondent was witnessed wasting 2 mg of Morphine,
16 but Respondent failed to record said wastage or document the administration of medication in the
17 MAR's or nursing notes. The physician's orders for this patient were for Demerol 4-6 mg., IV
18 every 2-4 hours for pain. Accordingly, the removal of morphine for this patient was not
19 authorized by the physician's orders.

20 SECOND CAUSE FOR DISCIPLINE

21 (Obtained Controlled Substances by Fraud or Deceit)

22 14. Respondent is subject to disciplinary action under section 2761,
23 subdivision (a), on grounds of unprofessional conduct, as defined under section 2762,
24 subdivision (a), in that while employed as a registered nurse at Methodist Hospital, Respondent
25 admitted to unlawfully obtaining and possessing controlled substances, as follows:

26 a.) On or about May 9, 2003, during a counseling meeting with her supervisor
27 and management personnel, Respondent admitted to diverting and using several drugs from the
28 hospital, including but not necessarily limited to Vicodin and Percocet.

1 THIRD CAUSE FOR DISCIPLINE

2 (Use of Controlled Substances)

3 15. Respondent is subject to disciplinary action under section 2761,
4 subdivision (a), for unprofessional conduct, as defined in Business and Professions Code, section
5 2762, subdivision (b), in that while employed as a registered nurse, at Methodist Hospital,
6 Respondent admitted to taking and self-administering controlled substances, as more fully
7 described in paragraph 12 above.

8 PRAYER

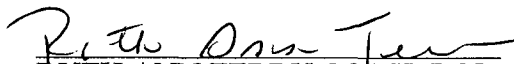
9 WHEREFORE, Complainant requests that a hearing be held on the matters herein
10 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 301325, issued
12 to Deena Susan Cohen.

13 2. Ordering Deena Susan Cohen to pay the Board of Registered Nursing the
14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
15 Professions Code section 125.3;

16 3. Taking such other and further action as deemed necessary and proper.

17
18 DATED: 4/20/08

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21 
22 RUTH ANN TERRY, M.P.H., R.N.
23 Executive Officer
24 Board of Registered Nursing
25 State of California
26 Complainant